

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Miyano Machinery USA Inc.,)	
)	
Plaintiff,)	
)	
vs)	Civil Action No. 08 C 526
)	
MiyanoHitec Machinery, Inc.,)	Hon. Virginia Kendall
Thomas ("Tom" Miyano, a/k/a)	
Toshiharu Miyano and Steven)	Magistrate Judge Nolan
Miyano, a/k/a Shigemori Miyano,)	
)	
Defendants)	JURY TRIAL DEMANDED
<hr/> MiyanoHitec Machinery, Inc.,)	
Thomas ("Tom" Miyano, a/k/a)	
Toshiharu Miyano and Steven)	
Miyano, a/k/a Shigemori Miyano,)	
)	
Counterclaimants,)	
)	
vs)	
)	
Miyano Machinery, Inc., and)	
Miyano Machinery USA, Inc.,)	
)	
Counterdefendants.)	

**MOTION OF THOMAS ("TOM") MIYANO DEFENDANT/COUNTERCLAIMANT
TO DISQUALIFY MASUDA FUNAI ELFERT & MITCHELL, LTD.,
AS COUNSEL FOR COUNTERDEFENDANT MIYANO MACHINERY, INC.**

Defendant/Counterclaimant Thomas ("Tom") Miyano respectfully moves the Court to disqualify Masuda, Funai, Eifert & Mitchell, Ltd., ("Masuda, Funai") an Illinois professional corporation engaged in the practice of law, as counsel for Counterdefendant Miyano Machinery, Inc., ("MMJ") a Japanese company, and, in support thereof, states:

1. Prior to 2003, MMJ was principally owned by Tom Miyano and Tom Miyano's family members.
2. At all times relevant Miyano Machinery USA Inc., was a wholly owned subsidiary of MMJ and was directed and controlled by MMJ.

3. Prior to 2004, Tom Miyano was the President and/or Chairman of the Board of Miyano Machinery USA Inc., ("MMU"), Plaintiff in this litigation.

4. Tom Miyano has been informed by email from Louis Alex, Cook Alex, one of the attorneys of record for MMU in this litigation, that attorneys with the law firm of Masuda, Funai, Eifert & Mitchell, Ltd., will be entering appearances on behalf of MMJ in this litigation.

5. Prior to 2004, Masuda Funai provided legal services to Tom Miyano, personally, in connection with at least one trademark application, transfer of direct or indirect ownership interests by Tom Miyano in MMU, tax matters, and other legal issues.

6. The subject matter of Masuda Funai's prior representation of Tom Miyano and the subject matter and issues in the current litigation are substantially related.

7. There exists the possibility, or appearance thereof, that confidential information which might have been given members of the law firm of Masuda Funai has a relationship to the subject matter of the pending litigation.

8. Accordingly, Masuda Funai ought to be disqualified from representing Miyano Machinery Inc., in the pending litigation. *Westinghouse Electric Corporation v. Gulf Oil Corporation*, 588 F.2d 221 (7th Cir., 1978)

DATED: March 24, 2008

Respectfully submitted,

/s/ Robert M. Karton
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